

Notice of Allowability

Application No.

09/821,683

Examiner

Mark Ruthkosky

Applicant(s)

LILIA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/3/2003.
2. ☒ The allowed claim(s) is/are 7 and 13-16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Mr. Jim Ruland on 12/17/2003.

The application has been amended as follows:

Please cancel claims 1-6, 8-12, and 17.

Claim Rejections - 35 USC § 102

The rejection of claims 1-6, and 8-12 under 35 U.S.C. 102(e) as being anticipated by Kawakami et al. (US 6,432,585) is moot, as the claims have been canceled.

The rejection of claim 17 under 35 U.S.C. 102(e) as being anticipated by Kawakami et al. (US 6,432,585) is moot, as the claim has been canceled.

Allowable Subject Matter

Claims 7, 13, 14, 15, and 16 are allowed.

The following is a statement of reasons for the allowance:

The allowed claims are to a process for the production of a positive active electrode material comprising a coated metal core of various metals including Sb, Bi, Cd, In, Pb, Ga, Sn,

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or an alloy as claimed, wherein the process includes preparing a suspension or sol of the metal or metal alloy in utropin; emulsifying the suspension with a hydrocarbon as claimed; precipitating the emulsion onto a metal or metal alloy core and converting the metal hydroxide or oxyhydroxide into a corresponding oxide by heating. The prior art references do not teach the process for the production of electrodes as provided wherein the process includes preparing a suspension or sol of the metal or metal alloy in utropin.

Further, with regard to claims 14-16, the references do not teach the combination of the negative electrode materials in claims 14-16 with a positive active electrode material comprising a coated metal core of various metals including Sb, Bi, Cd, In, Pb, Ga, Sn, or an alloy, as claimed.

The most pertinent prior art includes Kawakami et al. (US 6,432,585), which teaches an electrode including a coated metal core of tin or an alloy. The tin core is coated with a layer of tin oxide. The material has an average particle size of 0.5 to 60 μ m. The tin grain host material may include one or more materials. The material may be further coated with one or more layers of oxides of Sn, In, Zn or Ni. (See claim 45, for example.) The material may be used in a battery or electrochemical cell as a positive or negative electrode depending on the state of charge of the battery. The reference does not teach the process for the production of electrodes as provided, wherein the process includes preparing a suspension or sol of the metal or metal alloy in utropin or the combination of the negative electrode materials as noted in claims 14-16 with a positive active electrode material comprising a coated metal core of various metals including Sb, Bi, Cd, In, Pb, Ga, Sn, or an alloy, as claimed. Thus, these claims are allowable over the prior art.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner Correspondence

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Ruthkosky whose telephone number is 703-305-0587. The examiner can normally be reached on FLEX schedule (generally, Monday-Thursday from 9:00-6:00.) If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at 703-308-2383. The fax number is 703-872-9306.

Mark Ruthkosky

Primary Patent Examiner

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Mark Ruthkosky
12/22/03